

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

vs.

ROMAN ARAGON, *et al.*,

Defendants.

69cv07941-MV/LFG

RIO CHAMA STREAM SYSTEM

Section 7, Village of Chama

Subfile No. CHCV-001-0007

MOTION TO AMEND CONSENT ORDER
DESCRIBING THE WATER RIGHTS OF THE CUMBRES & TOLTEC
SCENIC RAILROAD COMMISSION IN SUBFILE CHCV-001-0007

The plaintiff State of New Mexico, *ex rel.* State Engineer (“State”) moves the Court to amend the Consent Order entered on August 12, 2005 (Doc. No. 8001) in Subfile CHCV-001-0007 describing the water rights of defendant Cumbres & Toltec Scenic Railroad Commission and as grounds therefore plaintiff states:

1. The Consent Order entered on August 12, 2005 in Subfile CHCV-001-0007 that describes the water rights of the Cumbres & Toltec Scenic Railroad Commission (“the Commission”) does not include a description of the amount of water or the priority of the Commission’s water rights. These elements of the Commission’s water rights were reserved for future determination. *See* Consent Order filed August 12, 2005, p. 2. The State has reviewed the information in the water rights files of the Office of the State Engineer with the staff of the Water Rights Division, and the State believes the Commission presently has the right to divert and use 35.0 acre-feet of surface and groundwater per annum (combined) with a priority of 1883.

2. Counsel for the State has discussed the State's assessment of the Commission's water rights with the Executive Director of the Commission, Leo Schmitz, who agrees with this assessment.

WHEREFORE, the plaintiff State of New Mexico requests the Court to amend the Consent Order entered on August 12, 2005 in Subfile CHCV-001-0007 to include the description of the elements of the Commission's water rights as described above.

Respectfully submitted,

/s/ Ed Newville
EDWARD G. NEWVILLE
Special Assistant Attorney General
Office of State Engineer
P.O. Box 25102
Santa Fe, NM 87504-5102
(505) 867-7444 telephone
(505) 867-2299 facsimile

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 27th day of July 2012, I filed the foregoing electronically through the CM/ECF system which caused the parties on the electronic service list, as more fully set forth in the Notice of Electronic Filing, to be served via electronic mail, and served the following parties via first class mail addressed as stated.

/s/ Ed Newville
EDWARD G. NEWVILLE

Leo Schmitz, Executive Director
Cumbres & Toltec Scenic Railroad Commission
P.O. Box 561
Antonito, Colorado 81120